

AMENDMENTS TO THE DRAWINGS

Please replace the sheet of drawings of Figs. 3-6 (1 sheet) with the enclosed replacement sheet of formal drawings of Figs. 3-6 (1 sheet).

REMARKS

The Notice Regarding Drawings indicates that the margins and the labels FIGS. 3-6 for Figs. 3-6 have informalities. The enclosed replacement drawings of Figs. 3-6 correct the informalities.

Applicant's Representative pointed out during telephone conversations with Draftsman Lam that this patent application was filed with print-outs of color photographs for Figs. 3-6 (1 sheet of drawings). The Patent Office issued a Notice of Allowance dated February 4, 2005 stating that the drawings originally filed with the application – which includes the color drawings of Figs. 3-6 – are acceptable. Further, Applicant's Representative believes the appropriate petition and fee for the color photograph print-out drawings were previously submitted by Applicant's Representative while at a previous law firm. Unfortunately, however, Draftsman Lam indicated that the Patent Office's database does not show receipt of the petition and fee. The patent application file which should have a copy of the previous petition is at the Representative's previous firm and is not readily accessible. Furthermore, Applicant desires expedited issuance of the formal U.S. patent as the Issue Fee was submitted February 11, 2005, over seven months ago. Thus, this Response includes a petition and fee for the color photograph print-outs for Figs. 3-6.

Also, Applicant kindly requests the Draftsman call Applicant's Representative Michael S. Leonard at 847-272-3400 ext. 203 when this Response is received to confirm the drawings are fully acceptable.

Petition and Payment of Fees

Applicant petitions under 37 C.F.R. §1.84 to accept the color photograph print-outs of Figs. 3-6 as drawings.

1. Petition Fee - §1.84(a)(2): The petition fee of \$130 set forth in 37 C.F.R. §1.17(h) is enclosed by payment via credit card; Form PTO-2038 is enclosed.

The Commissioner is authorized to charge Deposit Account No. 50-3189 for any fee for issuance of the U.S. patent, including the above petition fee, any other petition fee (consider this a petition therefore) and any other fee. The Commissioner is also authorized to credit Deposit Account No. 50-3189 for any overpayment of fees.

2. Three (3) sets of color drawings - §1.84(a)(2): Figs. 3-6 appear on one drawing sheet. Three sets of color drawings of Figs. 3-6 are enclosed. The enclosed three sets of color drawings are of sufficient quality such that all details in the drawings are reproducible in color and black and white. A black and white copy of Figs. 3-6 is also enclosed.

3. Specification Amendment - §1.84(a)(2): The specification has been amended to include the following language as the first paragraph of the BRIEF DESCRIPTION OF THE DRAWINGS. The following paragraph is the exact language provided by the Patent Office in 37 C.F.R. §1.84(a)(2)(iii).

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

4. Explanation of Why the Color Photograph Print-out Drawings are Necessary - §1.84(a)(2) and §1.84(b): The color photograph print-out drawings of Figs. 3-6 are necessary because it is the only practical medium by which to disclose and illustrate that subject matter of the invention. The Patent Office accepts photographs as drawings for photomicrographs of micro-sized structures. See the examples of acceptable photographs in §1.84(b). The subject matter of Applicant's Figs. 3-6 are included in the very examples given by the Patent Office as acceptable subject matter for photographs.

Applicant's Figs. 3-6 are micro-photographs of microspheres having sizes significantly less than 100 microns. For example, two sizes of microspheres measured in Fig. 3 are 41.889 microns and 26.538 microns (see page 14, lines 21-23 of the specification). The microspheres in Figs. 4-6 have similar micron sizes. A specialized microscope and camera system were necessary to view and photograph the microspheres of Figs. 3-6 (see the specification at page 14, lines 1-8).

Thus, the photographs of Figs. 3-6 are acceptable.

Also, Figs. 3-6 are necessarily in color. The photographs of Figs. 3-6 were taken by a specialized microscope and camera system. High intensity fiber optic lighting is used in the microscope and camera system to illuminate the microspheres. However, the high intensity fiber optic lighting on the microspheres causes glare which overpowers the ability to actually see the microspheres. To overcome the glare problem, the microspheres are stained or dyed

with a color to dramatically reduce the glare effect so that the microspheres can actually be seen. Thus, the color stain or dye is necessary to see the microspheres shown in Figs. 3-6 (see the specification at page 14, lines 1-8).

Therefore, the color photograph print-out drawings of Figs. 3-6 are necessary.

CONCLUSION

For the foregoing reasons, Applicant submits that the patent application is in condition for formally issuing as a U.S. patent. Applicant requests expedited issuance of the patent.

Respectfully submitted,
EVEREST INTELLECTUAL PROPERTY LAW GROUP

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BY



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